

OFFICE OF THE ATTORNEY GENERAL

86-00165



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

MAR 3 1986

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 261-7300

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
EXECUTIVE ASSISTANT

Honorable Harrell Blakeney
Member, House of Representatives
District No. 66
1101 Old Highway 550
Thomasville, Alabama 36784

Boards of Education -
Superintendents of Education -
Retirement - Offices and
Officers

Under the logic of the consent
agreement a Superintendent of
Education who was participating
in the Teachers' Retirement
System as of October 1, 1985,
may continue to do so.

Dear Representative Blakeney:

We have received your request for an opinion from this
office. You state the following facts:

"In Choctaw County, the Superintendent of
Education was appointed to fill an unex-
pired term. She has been serving as
Superintendent for the past two years and
her term expires in July, 1987."

Your question was:

"If she should run for re-election for
this office, would she be grandfathered
in under the latest court ruling for re-
tirement?"

Honorable Harrell Blakeney
Member, House of Representatives
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There was a consent decree entered in the Circuit Court of Montgomery, Alabama on October 1, 1985. This decree covered various elected state, county and municipal officials. This settlement allowed elected officials who were covered and contributing to the Retirement Systems as of October 1, 1985, to continue participating in the System. However, if an officer should leave the elected office, he or she would not be allowed to participate in the System if they were later elected to office following an interruption of service as an elected officer.

A Superintendent of Education would be under the Teachers' Retirement System and not the State Employees' Retirement System. Therefore, the settlement has no legal effect on the status of a Superintendent of Education. However, the same logic that was used to reach an agreement in the Employees' Retirement System should also be applied to the Teachers' Retirement System. Therefore, it is the opinion of this office that a Superintendent of Education that was participating in the Teachers' Retirement System as of October 1, 1985, would be allowed to continue in the Teachers' Retirement System as long as there is no interruption of elected office.

I hope this sufficiently answers your question. If, however, we may be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General
By-



ALICE ANN BOSWELL
Assistant Attorney General

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